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South Carolina House of Representatives

Legislative Update

David H. Wilkins, Speaker of the House

Vol. 13

March 12, 1996

No. 9

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WEEK IN REVIEW

HOUSE

Representatives gave third reading to the major funding bills for fiscal year 1996-97. Only a few amendments were added to **H. 4600**, the \$4.4 billion dollar budget, on its final pass through the House. One would allow judicial and state employees to collect their pay raises beginning October 1st rather than October 16th. Another increased funding for the Medical University of South Carolina's Diabetes Center for Excellence to \$232,000 from \$159,000. Also, an additional \$200,000 was placed in a parent support program funded with Education Improvement Act (EIA) money.

H. 4601, the \$227+ million dollar supplemental bill, distributes an estimated \$138.9 million dollars of general fund surpluses, and hopes there's money for the rest of the projects. Near the bottom of the "wish list" were \$3 million dollars for the Governor's School for the Arts, \$5 million dollars for the Governor's School for Math and Science, and \$3 million dollars for multi-district career centers. The measure gave top priority to \$64.2 million dollars in property tax relief for next fiscal year. It also provided \$8.2 million dollars in property tax relief for the current fiscal year. Among the other projects, the Department of Health and Human Services received \$12 million dollars for services to emotionally disturbed children. Special schools which train employees of businesses newly recruited to the state received \$6 million dollars. Funding which Chief Justice Ernest Finney requested for nine new judges, additional Family Court clerks, and an alternative dispute resolution program was included in the bill. Another \$2 million went toward Welfare Reform. The Infrastructure Revolving Loan Fund created in **H. 4706**, the Rural Development Act, received \$9.5 million dollars. \$10 million dollars was earmarked to eliminate taxes on motor vehicles. Other projects which may be funded if there is sufficient revenue are a European trade office and staff, computer upgrades for the Attorney General and Department of Public Safety, a DNA bank, and a new sports arena in Columbia. After all 68 projects on this wish list have been funded, \$26 million dollars would be spent on new school buses and parts.

H. 4602 divides nearly \$80.5 million dollars from the Capital Reserve Fund among 18 projects. \$11.5 million dollars was put toward the Federal Retiree Settlement, while a \$2.5 million dollar payment was made on the Catawba Indian Settlement. State House renovations were allocated \$8.9 million dollars. November's general election was funded at \$1.4 million dollars. Facility and equipment upgrades were provided for Wil Lou Gray, the School for the Deaf and Blind, and John De La Howe. \$33.7 million dollars was spent on nonrecurring expenses related to the Higher Education formula. \$2.9 million dollars went toward maintenance at the Department of Corrections, along with \$2 million dollar to improve conditions at the Department of Juvenile Justice. Computer upgrades were funded for the Department of Public Safety and the State Commission on Human Affairs. Other projects include a Clemson University research complex, materials to install dry fire hydrants, and equipment and vehicles for the Department of Natural Resources.

These three funding bills, along with several other bills which also received third reading in the House last week, were sent to the Senate. **S. 625** was returned for concurrence in a House amendment which it received. The bill provides for the size and coloring of poll watchers' badges. It has been enrolled for ratification, as has **S. 1044**. That measure requires insurers to maintain risk-based capital. Current statutory capital and surplus requirements are the same regardless of

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risks undertaken by insurers. This measure enacts formulas which can be used by the Department of Insurance to trigger needed regulatory actions against insurers with weak or deteriorating finances. The proposed legislation is needed for continued accreditation of insurers in the state. Also enrolled for ratification, H. 3062 prohibits seating legislators from applying for salaried positions elected by the General Assembly. In addition, it provides a twelve month waiting period before application for such a position can be made, rather than the current four year waiting period. This bill would affect only election of Employment Security Commissioners, Public Service Commissioners, and Administrative Law Judges. There would be no impact on any constitutional offices such as judges.

Representatives concurred in Senate amendments to two measures which then were enrolled for ratification. H. 4054 provides that participants in Tech Prep or other structured school to work programs are covered by worker's compensation through the employer which trains them. H. 4365 prohibits denying a firefighter entry into an emergency medical technician course based on whether his department has an ambulance. The Senate amendment revised the composition of the Emergency Medical Services Advisory Council.

The House gave second reading was given to two bills. H. 3230 prohibits employees of state or local election commissions and voter registration boards from endorsing or contributing to a candidate. In addition, he may not serve as a poll watcher or manager. H. 3326 establishes tax-free individual medical savings accounts. Funds may be deposited into a trust for payment of medical, dental, or long-term care expenses. The proposal reduces state income tax revenue by about \$24,000 per year beginning in fiscal year 1997-98.

Two bills were recalled from various committees last week. S. 1203 establishing a monument at the Walterboro Airfield to honor the accomplishments of the Tuskegee Airmen, was recalled from the Ways and Means Committee. H. 4492, a cap on taxes and fees imposed by local governments, was recommitted to the Judiciary Committee then recalled the next day. This procedural move was made in order to remove cloture from the measure, allowing additional amendments to be adopted. As the bill stands now, it would require a two-thirds vote to increase taxes or fees in most cases. It also authorizes local governments to impose an accommodations tax of up to three per cent and a meals tax of up to one per cent, capped overall at three per cent. The measure was proposed in response to a recent Supreme Court ruling which many believe gave local governments greater taxing authority.

SENATE

Governor David Beasley vetoed S. 654 which authorizes Sunday alcohol sales in the Waccamaw Neck area of Georgetown County, calling it "special legislation" designed to circumvent a general law. However, Senators overrode the gubernatorial veto. The measure now goes to the House for the veto to be upheld or overridden.

S. 625 received concurrence in a House amendment. The bill establishes size and coloring requirements of poll watcher badges. It now is enrolled for ratification, along with H. 3985, which received third reading in the Senate last week. The measure revises public hearing and notification requirements concerning insurance rate increases. Currently insurers earning less than five hundred thousand dollars (\$500,000) during the previous calendar year are exempted from having to hold a public hearing on proposed rate increases, and from having to post public notice of the rate increase in a newspaper. This bill extends that exemption to insurers earning less than two million

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dollars in premiums during the previous calendar year. This figure would be increased by the inflation factor every three years. The measure also revises information to be included in a public notice if needed, and provides that a copy of the notice must be sent the Consumer Advocate.

Several other measures also were given third reading in the Senate last week and sent to the House for consideration. **S. 1043** requires health insurance companies and health maintenance organizations (HMO's) to allow longer hospitalization after delivery. For a vaginal birth, the mother and child could remain in the hospital for up to two days after the day of delivery. The approved postpartum period for a caesarian delivery would be a maximum of three days after surgery. **S. 1071** allows a student to be exempted from physical education requirements in public schools with a physician's statement indicating a health concern. Also, the student may be exempted if he can show that the requirement violates his official religious beliefs. Instead of physical education, the student would be encouraged to take health education as an alternative course. **S. 1075** authorizes the State Public Service Authority to buy and maintain water treatment facilities in Calhoun and Colleton Counties in order to acquire, treat, and distribute water as is allowed currently in Berkeley, Charleston, Clarendon, Dorchester, Orangeburg, and Sumter Counties. The measure also permits transfer of water from one river basin to another in these counties. **S. 1089** is the School Crime Report Act. The proposed legislation requires that the Attorney General's office establish a toll-free telephone line for school administrators to report crimes which occur at school. (Administrators would continue to contact law enforcement agencies as well.) In addition, the Attorney General would be required to prosecute such cases and their appeals. The measure also authorizes school boards to expel students charged with a felony, assault and battery of a high and aggravated nature, or a crime involving a weapon or drug. **S. 1217** approves a Commission on Higher Education regulation which promotes recruitment of African-American male teachers by establishing a loan program for this purpose.

Another joint resolution, **S. 1218**, relating to a Commission on Higher Education regulation determining tuition rates and fees, was given second reading in the Senate last week. It clarifies residency statutes, and provides institutions with fair and equitable standards which can be administered consistently. Several other bills also received preliminary approval. **S. 913** is a technical revision updating the reference date where the state annually adopts Internal Revenue Codes. **S. 926** provides that the identity or picture of a juvenile offender may be made public in cases of a violent crime, car theft, drug trafficking, or where a weapon is involved. **S. 1016** deletes the requirement that a warning must be given to a person within the preceding six months before he could be arrested for trespassing. **S. 1028** abolishes a municipal election commission when the county election commission assumes total responsibility for municipal elections. **S. 1032** provides that motor oil, new tires, lead-acid batteries, and white goods are exempted from sales tax. The fiscal impact of the measure is estimated to be \$400,000 annually. **S. 1072** provides that property of nonprofit housing corporations providing rental or cooperative housing for the elderly, handicapped, or low to moderate income families are exempted from property tax. This measure affects fifteen facilities in the state, and shifts about \$14,000 of local property taxes to other taxpayers. **S. 1081** authorizes the withholding of state funds to satisfy delinquencies of an entity participating in the state health and dental insurance plans. **S. 1082** provides an appellate procedure for state health or dental claims. **S. 1148** sets forth procedures where the Budget and Control Board may cancel delinquent liability policies. **H. 3300** establishes a sex offender registry and requires public notification of sex offenders residing in a community. **H. 3535** provides that jurisdiction be transferred from the family court when a juvenile commits an offense which if committed by an adult would be provide for imprisonment of ten years or more, or if the juvenile has two prior convictions in circuit court for similar offenses.

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COMMITTEE ACTION

AGRICULTURE, NATURAL RESOURCES, AND ENVIRONMENTAL AFFAIRS

The full committee did not meet last week. However, the Wildlife Subcommittee reported favorably on **H. 4480** which authorizes the running of coyotes with dogs in a private enclosed fox-hunting-dog-training facility in order to train the dogs. Members adjourned debate on **H. 4661** which reduces the number of game zones in the state from eleven to four. The measure makes numerous revisions in current law to conform code sections and provide uniformity. Also, the bill defines big game as deer, turkey, and bear; coyote is included as small game.

An Environmental Subcommittee reported favorably on two measures. **H. 4570** adds a member from the Auto Recyclers and Dismantlers Association to the Waste Tire Grant Committee. **H.3553** prohibits transportation in this state of spent nuclear fuel or high-level radioactive waste from outside the United States without a prior environmental impact statement from the Nuclear Regulatory Commission in accord with the National Environmental Policy Act. Also, the Department of Health and Environmental Control would have to certify that transportation and storage of the material would pose no significant risk to the health and safety of South Carolinians.

EDUCATION AND PUBLIC WORKS

The Postsecondary Education Subcommittee made minor revisions to **H. 4637**, the Higher Education Academic Quality and Accountability Act. The bill proposes establishing the Commission on Higher Education as the sole statewide authority for coordinating all higher education, authorizing that body to expand, reduce, consolidate, and eliminate programs at the state's institutions of higher learning so as to reduce duplication and raise quality and efficiency. Levels of funding for all institutions would be conditional upon meeting certain critical success factors and performance indicators.

JUDICIARY

While the full Judiciary Committee did not meet last week, the General Laws Subcommittee reported favorably on three bills. **H. 3861** models the federal wiretapping law and provides penalties for violations. The bill establishes that only the State Law Enforcement Division (SLED) knowingly may intercept communications legally. Even then the order must be approved by the Attorney General and authorized by a circuit court judge. **H. 4387** gives an employer greater flexibility in providing a work reference. The measure provides the employer with an absolute immunity from a civil lawsuit when exchanging objective information such as job title or pay rate. The same immunity is given when sending a written performance evaluation which addresses such matters as attitude and skills as long as the employer knowingly does not providing false information. The former employee also would receive a copy of the written evaluation.

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H. 4614 enacts the Children's Code Reform Act of 1996. This skeletal bill has been merged another skeletal bill, **H. 4098**, the Omnibus Foster Care Reform Act of 1995. The purpose of the measure is to refine and speed up the Foster Care process. It would require a hearing to assure probable cause be held within seventy-two hours after a child has been taken into custody, rather than the current ten days. The hearing could be conducted by conference call or videoconference if needed. The measure makes standards for removal stricter and requires that the child be in "substantial" danger. It authorizes a caseworker to determine whether to take a child into custody rather than a law enforcement officer, and provides immunity for the decision as long as it is made in good faith. The bill delays taking the child into actual custody for twenty-four hours so that a preliminary investigation may be made by the Department of Social Services (DSS). A final report must be made within thirty days if the child is in DSS custody or forty-five days if remaining at home. Currently this report must be made within sixty days. The measure authorizes DSS to create a temporary crisis placement facility where parents may voluntarily place their children for up to seventy-two hours during a family crisis. It also requires that in a case where a child has been in foster care for a year, a hearing must be held to decide on permanent placement for the child.

LABOR, COMMERCE, AND INDUSTRY

Last week, the Property and Casualty Insurance Subcommittee reported favorably on **H. 4574** and **H. 4660**. **H. 4574** revises the assigned risk plan which allows businesses to obtain workers' compensation coverage after being turned for coverage in the voluntary market. The bill affords the director of the Department of Insurance more control over the process, requiring his approval before the assigned risk plan may be used and allowing him to set up a competitive bidding process for servicing carriers of the assigned risk pool whenever such a process would be most economical. **H. 4660** extends the current exemption from taxes on insurance premiums to include workers' compensation insurance premiums provided by companies which insure only churches. The subcommittee recommended that **H. 4376** be tabled. The bill establishes mandatory drivers' education for fifteen-year-olds, funding the vouchers for the education with a three dollar annual fee added on all automobile insurance bills. The three major bills proposing comprehensive automobile insurance reform are currently before the subcommittee. **S. 628**, the proposal drawn up by representatives from the insurance industry, eliminates recoupment fees, retains the existing reinsurance facility, provides insurance companies with more rating categories, and frees the companies to refuse to write coverage in certain instances, passing that business to subsidiaries. **H. 4593**, the "choice no-fault plan," replaces the reinsurance facility with a joint underwriting association, gives consumers the option of purchasing no-fault coverage which limits one's ability to sue, and allows insurers to use four rating categories with clean drivers receiving the least expensive rates. **H. 4658**, the "Virginia plan," eliminates recoupment fees and provides that auto insurance is not mandatory if the driver pays a five hundred dollar fee and agrees to pay for all damage claims with property damage claims capped at ten thousand dollars. Under the bill insurers have more freedom to cancel policies and refuse coverage; those drivers whom insurers will not insure voluntarily are assigned to companies and pay significantly higher rates.

The Banking and Consumer Affairs Subcommittee gave a favorable report to **H. 4542**, The Setoff Debt Collection Act. The measure adds county, city, and regional housing authorities to the list of claimant agencies which can collect debts through setoff collection. That is, in the case

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of individuals who owe claimant agencies, the Department of Revenue sets aside funds from income tax refunds to pay off debts with these claimant agencies.

MEDICAL, MILITARY, PUBLIC AND MUNICIPAL AFFAIRS

The Medical, Military, Public and Municipal Affairs Committee gave a favorable report to **S. 599**, which allows the South Carolina Protection and Advocacy System for the Handicapped to change its name to the South Carolina Protection and Advocacy System for People with Disabilities. The SCP&A board voted for this new name so as to better reflect their constituency.

The Subcommittee on Occupational Regulation and Licensing Boards reported favorably on **S. 598**, which allows the Board of Dentistry, in the course of investigating misconduct, to require a licensee, registrant, or applicant to submit to a mental or physical examination if it has been alleged that the person is incompetent to practice by reason of physical or mental illness, alcoholism, or substance abuse. The bill also adds as a grounds for disciplinary action, the inappropriate prescription or administration of drugs by a dentist, dental hygienist, or dental technician.

WAYS AND MEANS

Neither the full committee nor subcommittees met last week.

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BILLS INTRODUCED

The following is a brief overview of some of the bills introduced in the House last week. Bill summaries are listed in numeric order according to committee assignment.

AGRICULTURE, NATURAL RESOURCES, AND ENVIRONMENTAL AFFAIRS

H. 4698 BIG GAME HUNTING Rep. Wilkes

The measure repeals the prohibition against hunting of all game from public roads and railroad right-of-ways. However, it adds a section prohibiting hunting and shooting big game from a public, paved road in game zones 1, 2, and 4. Violations would be considered misdemeanors punishable by a one hundred to five hundred dollar (\$100-\$500) fine or imprisonment of not more than thirty days.

H. 4717 SOLID WASTE MANAGEMENT Rep. Sharpe

The bill defines "structural fill" and restricts local governments from regulating these facilities. Also, the measure authorizes the Department of Health and Environmental Control to issue permits for short term structural fills which operate less than twelve months.

EDUCATION AND PUBLIC WORKS

S. 917 SPECIAL LICENSE PLATES FOR NATIONAL GUARD Sen. Wilson

This bill eliminates the thirty dollar (\$30) biennial fee on special license plates for National Guard members.

S. 1071 EXEMPTIONS FROM PHYSICAL EDUCATION Sen. Leventis

This bill allows a student to obtain from the local school board of trustees an exemption from physical education classes for medical or religious reasons. Health education or other instruction in lifestyle modification would be substituted.

S. 1089 SCHOOL CRIME Sen. Setzler

This bill assigns the Attorney General's office a coordinating role in school crime initiatives. The State Department of Education and law enforcement agencies are directed to forward to the Attorney General all information compiled on school related crime so that the Attorney General may coordinate the prosecution of these crimes.

H. 4719 FULL-DAY KINDERGARTEN Rep. McTeer

This bill requires all school districts to offer full-day five-year-old kindergarten programs with optional attendance beginning in the 1996-97 school year, unless a waiver is obtained. An automatic waiver would be granted should the General Assembly not appropriate necessary funds.

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JUDICIARY

H. 4699 ROLLBACK MILLAGE Rep. Stuart

The bill defines rollback millage by providing a formula for its determination as it relates to the Homestead Exemption from school operating taxes. The millage is derived by dividing the prior year's property tax revenues by the adjusted total assessed value.

H. 4712 ANIMAL ABUSE/NEGLECT Rep. Seithel

This measure strengthens laws concerning mistreatment of animals. It provides that third and subsequent offenses are considered felonies punishable by up to five years imprisonment and/or a fine of up to five thousand dollars (\$5,000). Currently the punishment is imprisonment of up to two years and/or a fine of not more than two thousand dollars (\$2,000). Under the bill, a person who tortured or mutilated an animal would be guilty of a felony, rather than the current misdemeanor, and would be imprisoned for two years and fined ten thousand dollars (\$10,000). Current provisions are imprisonment of six months to two years, and a five thousand dollar (\$5,000) fine.

H. 4714 BAIL Rep. Scott

Under provisions in this measure, a person must be allowed a bond hearing within twenty-four hours after arrest. Also, he must be released within two hours after posting bail. The bill provides that a surety may ask a judge for a commitment order if the person has violated previous bail terms. If the principal has been surrendered to the court after estreatment, a refund of a specific percentage is authorized according to when the principal is surrendered. The bill also revises licensing of bailsmen and runners by requiring they receive the same minimum training as a law enforcement officer, and provides that they may attend a court proceeding or hearing to set a defendant's bond.

H. 4718 JUVENILE CASE REVIEW Rep. Limbaugh

The proposed legislation provides that a juvenile convicted of a violent crime does not have the right to have his case reviewed automatically every quarter. Instead the Parole Board is authorized to conduct an annual review.

LABOR, COMMERCE, AND INDUSTRY

H. 4701 BANKING BOOTHS Rep. Worley

This bill allows financial institutions to send account representatives to public events as well as educational, governmental, medical and other sorts of commercial facilities for the purpose of opening deposit accounts. Financial institutions must have permission from the facilities they visit.

H. 4705 MORTGAGE LOAN BROKERS WITHOUT OFFICES Rep. Easterday

This bill allows mortgage loan brokers who file with the Department of Consumer affairs and meet certain conditions to operate without an office or official place of business.

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H. 4708 "SOUTH CAROLINA PATIENT PROTECTION ACT" Rep. Seithel

This bill allows an individual receiving health care services from a managed care organization to receive care, without penalty, from a provider outside the organization. Under the bill, managed care contracts could not allow indemnification from providers for liability of the organization.

H. 4709 PAWNBROKERS' RECORDS Rep. Limehouse

This bill requires pawnbrokers to include in their loan transaction records information on the manufacturer, make, model, and serial number of all items pawned. These records must be provided to law enforcement agencies on a monthly basis. The measure also prohibits a pawnbroker from accepting merchandise from which a serial number has been removed.

H. 4716 FOREIGN BREWERIES Rep. D. Smith

This bill considers an importer of beer produced by a brewer outside the United States to be an agent of that foreign brewer. Any agreement between a wholesaler and an importer must be honored by any succeeding importer representing the same foreign brewer.

MEDICAL, MILITARY, PUBLIC AND MUNICIPAL AFFAIRS

H. 4702 "ALZHEIMER'S SPECIAL CARE DISCLOSURE ACT" Rep. Harris

This bill requires facilities which advertise special care for Alzheimer's sufferers to disclose to the Department of Health and Environmental Control the form of care provided which distinguishes the program as being especially suited for these patients.

WAYS AND MEANS

S. 1203 TUSKEGEE AIRMEN MONUMENT Sen. Washington

This joint resolution establishes a monument to honor the Tuskegee Airmen at the Walterboro Airfield.

H. 4706 RURAL DEVELOPMENT ACT OF 1996 Rep. Wilkins

Designed to attract new industry into the state, few service businesses would qualify for the proposed tax breaks. The bill broadens the enterprise zone act to provide that the entire state is an enterprise zone, and divides counties into four categories--developed, moderately developed, underdeveloped, and least developed. Greatest tax breaks would be in counties with high unemployment rates and low per-capita income. Businesses in these areas could get up to a \$4,500 income tax break for each job created, while businesses in developed counties would receive only a \$1,500 income tax break. The bill creates the Rural Infrastructure Fund to attract new industry into remote areas of South Carolina by paying for roads, water systems, and telecommunications networks only in least developed and undeveloped counties. Money for this fund would be provided by business incentives from wealthier counties. It provides that retraining of employees may be accomplished at all public institutes of higher education, not just technical colleges. The measure also provides that a qualifying business which creates at least ten new full-time jobs would be eligible for a job development fee and a jobs tax credit. The bill also provides

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that these qualifying businesses also are eligible to use special source revenue bonds, and revises the amount of initial job credit allowed. It provides that health care providers would be eligible for these tax breaks, and revises tax credits for businesses employing welfare recipients. In addition, the bill revises capital gains tax provisions. The legislation provides that businesses could negotiate with local governments for lower tax rates spread over thirty years rather than the current twenty years, and that businesses investing from \$5 million to \$400 million dollars could pay a fee-in-lieu of property taxes. It also authorizes a three per cent property tax assessment ratio rather than the current six per cent for businesses which invest more than \$400 million dollars and create at least 200 new jobs.

H. 4707 LONG TERM CARE INSURANCE Rep. P. Harris

Under provisions of this bill, a consumer could receive an income tax credit on twenty per cent of long term care insurance premiums. This credit would be limited to three hundred dollars (\$300) annually for one person, and capped at six hundred dollars (\$600) each year. Also, no credit would be allowed for expenses paid from public funds. Currently this income tax credit is only available for expenses paid on nursing home, in-home, or community care.

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FOOTNOTE

The Legislative Update is now on-line! Members and staff who are on the network may access documents by pressing "List Files (F5)," then typing "H:\UPDATE" and pressing "enter." All of the Legislative Updates will be listed by week. Using up/down arrows, choose the Update corresponding to the week you need and press "enter."

If you prefer to access the Legislative Update through the World Wide Web, visit the South Carolina General Assembly Home Page. Click on "Quick-Find Guide" on the first page. On the next screen, click on "Reports." This will list all of the Legislative Updates by week. Click on the week you need.

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